

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION**

**ALICIA SMITH, CAROLINA BOURQUE,  
EMMA BURKEY, CHRISTOPHER CODY  
FLINT, MICHELLE ZIMMERMAN, PhD,  
ERIN RHODES, JESSICA KROGMEIER,  
LORIN JEPPSEN, and REACT19, INC.,**

*Plaintiffs,*

**-vs.-**

**UNITED STATES OF AMERICA, UNITED  
STATES HEALTH RESOURCES AND  
SERVICES ADMINISTRATION, UNITED  
STATES DEPARTMENT OF HEALTH AND  
HUMAN SERVICES, and JOHN DOES 1-3,**

*Defendants.*

Case No. 3:23-cv-01425-EEF-KDM

Judge Elizabeth E. Foote

Magistrate Kayla D. McClusky

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**MOTION FOR LEAVE TO FILE PLAINTIFFS' THIRD AMENDED COMPLAINT**

Plaintiffs move the Court to grant leave to file their Third Amended Complaint. The proposed Third Amended Complaint is attached hereto. For the following reasons, good cause exists.

1. On December 21, 2023, Plaintiffs filed their Second Amended Complaint. (Dkt. 35.)
2. Plaintiffs submit this motion for leave to file their Third Amended Complaint under Local Rules 4.1 and 7.6.
3. On February 20, 2024, Defendants filed a motion to dismiss Plaintiffs' second amended complaint. (Dkt. 41.)
4. It is in the best interests of justice that the Second Amended Complaint be amended because, in order to cure any alleged deficiencies and in response to Defendants' motion to dismiss,

Plaintiffs have revised their claims and their requested relief, and have added additional allegations.

5. Plaintiffs presented Defendants' counsel a copy of the proposed Third Amended Complaint, in satisfaction of LR 7.6, along with a redline comparing the Third Amended Complaint to the Second Amended Complaint.

6. On February 27 and 28 and March 10, 11 and 12, 2024, counsel for Plaintiffs and counsel for Defendants met and conferred via email. On February 27, counsel for Plaintiffs requested Defendants' consent to file a Third Amended Complaint after having reviewed Defendants' motion to dismiss. On February 28, counsel for Defendants responded that they would not consent, and reserved all rights, until they had the opportunity to review the Third Amended Complaint. Counsel for Plaintiffs provided Defendants with a copy of the Third Amended Complaint (in clean and redline versions) on March 10. Counsel for Plaintiffs sent an additional email to confirm Defendants' position on March 11. Counsel for Defendants stated that Defendants were still reviewing in order to determine their position on the proposed amendment. Plaintiffs' counsel again inquired about Defendants' position on March 12. As of March 12, Defendants have represented that they will take a position upon reviewing this motion.

7. The Third Amended Complaint is attached hereto as Exhibit A. A redline version of the Third Amended Complaint from the Second Amended Complaint is attached hereto as Exhibit B.

Accordingly, there is good cause for the Court to issue an Order providing Plaintiffs with leave to file their Third Amended Complaint.

Dated: March 12, 2024

Respectfully submitted,

/s/ Charlotte Y. Bergeron

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\* *Admitted pro hac vice*

### **CERTIFICATE OF CONFERENCE**

I hereby certify that on February 27 and 28 and March 10, 11 and 12, 2024, counsel for Plaintiffs and counsel for Defendants met and conferred and counsel for Defendants stated that Defendants will take a position upon reviewing this motion.

/s/ Aaron Siri

Aaron Siri, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that on March 12, 2024, I presented the foregoing to the Clerk of Court for filing by uploading to the CM/ECF system which will send notification and service of such filing to all parties or counsels of record.

/s/ Aaron Siri  
Aaron Siri, Esq.